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SENATE BILL 499

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Howie Morales

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING AN
ALTERNATIVE RETIREMENT PLAN FOR MOTOR TRANSPORTATION OFFICERS;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

B. "affiliated public employer" means the state and

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1 any public employer affiliated with the association as provided
2 in the Public Employees Retirement Act, but does not include an
3 employer pursuant to the Magistrate Retirement Act, the
4 Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees
6 retirement association established under the Public Employees
7 Retirement Act;

8 D. "disability retired member" means a retired
9 member who is receiving a pension pursuant to the disability
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the
12 pension paid pursuant to the disability retirement provisions
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means that
15 retirement system provided for in the Educational Retirement
16 Act;

17 G. "employee" means [~~any~~] an employee of an
18 affiliated public employer;

19 H. "federal social security program" means that
20 program or those programs created and administered pursuant to
21 the act of congress approved August 14, 1935, Chapter 531, 49
22 Stat. 620, as that act may be amended;

23 I. "final average salary" means the final average
24 salary calculated in accordance with the provisions of the
25 applicable coverage plan;

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1 J. "form of payment" means the applicable form of
2 payment of a pension provided for in Section 10-11-117 NMSA
3 1978;

4 K. "former member" means a person who was
5 previously employed by an affiliated public employer, who has
6 terminated that employment and who has received a refund of
7 member contributions;

8 L. "fund" means the funds included under the Public
9 Employees Retirement Act;

10 M. "member" means a currently employed,
11 contributing employee of an affiliated public employer, or a
12 person who has been but is not currently employed by an
13 affiliated public employer, who has not retired and who has not
14 received a refund of member contributions; "member" also
15 includes the following:

16 (1) "adult correctional officer member" means
17 a member who is an adult correctional officer or an adult
18 correctional officer specialist employed by a correctional
19 facility of the corrections department or its successor agency;

20 (2) "hazardous duty member" means a member who
21 is a juvenile correctional officer employed by the children,
22 youth and families department or its successor agency;

23 (3) "motor transportation officer member"
24 means a member who is an officer of the motor transportation
25 division of the department of public safety and who has taken

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1 the oath prescribed for such officers;

2 [~~(3)~~] (4) "municipal detention officer member"
3 means a member who is employed by an affiliated public employer
4 other than the state and who has inmate custodial
5 responsibilities at a facility used for the confinement of
6 persons charged with or convicted of a violation of a law or
7 ordinance;

8 [~~(4)~~] (5) "municipal fire member" means any
9 member who is employed as a full-time nonvolunteer firefighter
10 by an affiliated public employer and who has taken the oath
11 prescribed for firefighters;

12 [~~(5)~~] (6) "municipal police member" means any
13 member who is employed as a police officer by an affiliated
14 public employer, other than the state, and who has taken the
15 oath prescribed for police officers; and

16 [~~(6)~~] (7) "state police member" means any
17 member who is an officer of the New Mexico state police and who
18 has taken the oath prescribed for such officers;

19 N. "membership" means membership in the
20 association;

21 O. "pension" means a series of monthly payments to
22 a retired member or survivor beneficiary as provided in the
23 Public Employees Retirement Act;

24 P. "public employer" means the state, any
25 municipality, city, county, metropolitan arroyo flood control

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1 authority, economic development district, regional housing
2 authority, soil and water conservation district, entity created
3 pursuant to a joint powers agreement, council of government,
4 conservancy district, irrigation district, water and sanitation
5 district, water district and metropolitan water board,
6 including the boards, departments, bureaus and agencies of a
7 public employer, so long as these entities fall within the
8 meaning of governmental plan as that term is used in Section
9 414(d) of the Internal Revenue Code of 1986, as amended;

10 Q. "refund beneficiary" means a person designated
11 by the member, in writing, in the form prescribed by the
12 association, as the person who would be refunded the member's
13 accumulated member contributions payable if the member dies and
14 no survivor pension is payable or who would receive the
15 difference between pension paid and accumulated member
16 contributions if the retired member dies before receiving in
17 pension payments the amount of the accumulated member
18 contributions;

19 R. "retire" means to:

20 (1) terminate employment with all employers
21 covered by any state system or the educational retirement
22 system; and

23 (2) receive a pension from a state system or
24 the educational retirement system;

25 S. "retired member" means a person who has met all

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1 requirements for retirement and who is receiving a pension from
2 the fund;

3 T. "retirement board" means the retirement board
4 provided for in the Public Employees Retirement Act;

5 U. "salary" means the base salary or wages paid a
6 member, including longevity pay, for personal services rendered
7 an affiliated public employer. "Salary" shall not include
8 overtime pay, allowances for housing, clothing, equipment or
9 travel, payments for unused sick leave, unless the unused sick
10 leave payment is made through continuation of the member on the
11 regular payroll for the period represented by that payment, and
12 any other form of remuneration not specifically designated by
13 law as included in salary for Public Employees Retirement Act
14 purposes. Salary in excess of the limitations set forth in
15 Section 401(a) (17) of the Internal Revenue Code of 1986, as
16 amended, shall be disregarded. The limitation on compensation
17 for eligible employees shall not be less than the amount that
18 was allowed to be taken into account under the state retirement
19 system acts in effect on July 1, 1993. For purposes of this
20 subsection, "eligible employee" means an individual who was a
21 member of a state system before the first plan year beginning
22 after December 31, 1995;

23 V. "state system" means the retirement programs
24 provided for in the Public Employees Retirement Act, the
25 Magistrate Retirement Act and the Judicial Retirement Act;

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1 W. "state retirement system acts" means
2 collectively the Public Employees Retirement Act, the
3 Magistrate Retirement Act, the Judicial Retirement Act and the
4 Volunteer Firefighters Retirement Act; and

5 X. "survivor beneficiary" means a person who
6 receives a pension or who has been designated to be paid a
7 pension as a result of the death of a member or retired
8 member."

9 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
11 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
12 to read:

13 "10-11-27. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
14 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

15 A. State [~~police member and adult correctional~~]
16 officer member coverage plan 1 is applicable to state police
17 members who are not specifically covered by another coverage
18 plan, [~~and~~] to adult correctional officer members and to motor
19 transportation officer members. The credited service of a
20 state police member who has held the permanent rank of
21 patrolman, sergeant, lieutenant or captain and does not hold an
22 exempt rank or who is assigned to the aircraft division as a
23 pilot [~~or~~] and the credited service of an adult correctional
24 officer member or a motor transportation officer member shall
25 have actual credited service increased by twenty percent for
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1 the purposes of state [~~police~~] officer member coverage plan 1.

2 B. State [~~police member and adult correctional~~]
3 officer member coverage plan 1 is applicable to:

4 (1) adult correctional officer members in the
5 first full pay period after July 1, 2004 if the retirement
6 board certifies to the secretary of state that, of those adult
7 correctional officer members to be covered under state [~~police~~
8 member and adult correctional] officer member coverage plan 1,
9 a majority of the members voting have voted to approve adoption
10 of that plan at an election conducted pursuant to [~~Section 16~~
11 of this 2003 act] Laws 2003, Chapter 268, Section 16; and

12 (2) motor transportation officer members in
13 the first full pay period after July 1, 2010 if the retirement
14 board certifies to the secretary of state that, of those motor
15 transportation officer members to be covered under state
16 officer member coverage plan 1, a majority of the members
17 voting have voted to approve adoption of that plan at an
18 election conducted pursuant to Section 9 of this 2009 act."

19 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,
20 Chapter 268, Section 10) is amended to read:

21 "10-11-27.1. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
22 OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--
23 Notwithstanding the provisions of Section 10-11-27 NMSA 1978,
24 to qualify for payment under state [~~police member and adult~~
25 ~~correctional~~] officer member coverage plan 1:

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1 A. an adult correctional officer member shall have
2 eighteen months of service credit earned under the state
3 [~~police member and adult correctional~~] officer member coverage
4 plan 1 subsequent to July 1, 2004; and

5 B. a motor transportation officer member or a
6 special investigation officer member shall have thirty-six
7 months of service credit earned under the state officer member
8 coverage plan 1 subsequent to July 1, 2010."

9 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 28, as amended) is amended to read:

11 "10-11-28. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
12 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
13 FOR NORMAL RETIREMENT.--Under state [~~police member and adult~~
14 ~~correctional~~] officer member coverage plan 1, the age and
15 service requirements for normal retirement are:

16 A. age sixty-five years or older and five or more
17 years of credited service;

18 B. age sixty-four years and eight or more years of
19 credited service;

20 C. age sixty-three years and eleven or more years
21 of credited service;

22 D. age sixty-two years and fourteen or more years
23 of credited service;

24 E. age sixty-one years and seventeen or more years
25 of credited service;

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1 F. age sixty years and twenty or more years of
2 credited service; or

3 G. any age and twenty-five or more years of
4 credited service."

5 Section 5. Section 10-11-29 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 29, as amended) is amended to read:

7 "10-11-29. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
8 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
9 PAYMENT A.--Under state [~~police member and adult correctional~~]
10 officer member coverage plan 1, the amount of pension under
11 form of payment A is equal to three percent of final average
12 salary multiplied by credited service. The amount shall not
13 exceed eighty percent of the final average salary."

14 Section 6. Section 10-11-30 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 30, as amended) is amended to read:

16 "10-11-30. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
17 OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under
18 state [~~police member and adult correctional~~] officer member
19 coverage plan 1, the final average salary is one thirty-sixth
20 of the greatest aggregate amount of salary paid a member for
21 thirty-six consecutive months of credited service. Under state
22 [~~police member and adult correctional~~] officer member coverage
23 plan 1, if a [~~state police~~] member has less than thirty-six
24 months of credited service, the final average salary is the
25 aggregate amount of salary paid a member for the member's

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1 period of credited service divided by the member's credited
2 service."

3 Section 7. Section 10-11-31 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 31, as amended) is amended to read:

5 "10-11-31. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
6 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
7 member under state [~~police member and adult correctional~~]
8 officer member coverage plan 1 shall contribute seven and
9 six-tenths percent of salary."

10 Section 8. Section 10-11-32 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 32, as amended) is amended to read:

12 "10-11-32. STATE [~~POLICE MEMBER AND ADULT CORRECTIONAL~~]
13 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
14 state shall contribute twenty-five and one-tenth percent of the
15 salary of each member under state [~~police member and adult~~
16 ~~correctional~~] officer member coverage plan 1."

17 Section 9. TEMPORARY PROVISION--STATE OFFICER MEMBER
18 COVERAGE PLAN 1--ELECTIONS.--On or before October 1, 2009, the
19 public employees retirement board shall conduct an election to
20 submit to motor transportation officer members currently
21 contributing under state general member coverage plan 3 the
22 question of adopting state officer member coverage plan 1. The
23 election shall be conducted in accordance with procedures
24 adopted by the public employees retirement board, and the
25 retirement board shall certify the results of the election to

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the secretary of state on or before November 1, 2009.

- 12 -